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Medtronic, Inc.

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION**

FREIGHT MANAGEMENT, INC., a  
California corporation,

Plaintiff,

v.

MEDTRONIC, INC., a Minnesota  
corporation,

Defendant.

**Case No. 8:17-cv-01309 CJC (PLAx)**

**DISCOVERY MATTER**

**PROTECTIVE ORDER**

Having considered the parties' pleadings on this file to date, the parties jointly Stipulated Protective Order to govern the handling of information and materials produced in the course of discovery or filed with the Court in this action, the Court determines as follows:

**GOOD CAUSE STATEMENT**

It is the intent of the parties and the Court that information will not be designated as confidential in this case for tactical reasons, and that nothing shall be designated without a good faith belief that there is good cause why it should not be part of the public record. Examples of confidential information that the parties may seek to protect from unrestricted or unprotected disclosure include, but are not

1 limited to:

- 2 (a) Information that is the subject of a contractual non-disclosure or  
3 confidentiality agreement or obligation, and/or Protective Order  
4 issued in another case;
- 5 (b) The names, or other information tending to reveal the identity  
6 of a party's manufacturer, supplier, distributor, designer or  
7 customer;
- 8 (c) Agreements with third-parties, including license agreements,  
9 distributor agreements, manufacturing agreements, design  
10 agreements, development agreements, supply agreements, sales  
11 agreements, or service agreements;
- 12 (d) Research and development information;
- 13 (e) Proprietary engineering or technical information, including  
14 product design, manufacturing techniques, processing  
15 information, drawings, memoranda and reports;
- 16 (f) Information related to budgets, sales, revenues, profits, costs,  
17 margins, licensing of technology or designs, product pricing, or  
18 other internal financial/accounting information, including non-  
19 public information related to financial condition or performance  
20 and income or other non-public tax information;
- 21 (g) Information related to internal operations including personnel  
22 information;
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1 (h) Information related to past, current and future market analyses  
2 and business and marketing development, including plans,  
3 strategies, forecasts and competition; and

4 (i) Trade secrets (as defined by the jurisdiction in which the  
5 information is located).  
6

7 Unrestricted or unprotected disclosure of such confidential technical,  
8 commercial or personal information would, in the producing party's opinion, result  
9 in prejudice or harm to the producing party by revealing the producing party's  
10 competitive confidential information, which has been developed at the expense of  
11 the producing party and which represents valuable tangible and intangible assets of  
12 that party. Additionally, legitimate privacy interests must be safeguarded.

13 Accordingly, the parties respectfully submit that there is good cause for the entry  
14 of this Protective Order.

15 The parties agree, subject to the Court's approval, that the following terms  
16 and conditions shall apply to this civil action.

17 1. Designated Material.

18 1.1 Information or material may be designated for confidential treatment  
19 pursuant to this Protective Order by any party, person or entity producing or  
20 lodging it in this action (the "Designating Party"), if: (a) produced or served,  
21 formally or informally, pursuant to the Federal Rules of Civil Procedure or in  
22 response to any other formal or informal discovery request in this action; and/or  
23 (b) filed or lodged with the Court. All such information and material and all  
24 information or material derived from it constitutes "Designated Material" under  
25 this Protective Order.

26 1.2 Unless and until otherwise ordered by the Court or agreed to in  
27 writing by the parties, all Designated Materials designated under this Protective  
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1 Order shall be used by the parties and persons receiving such Designated  
2 Materials (“Receiving Party”) solely for litigation purposes, including any  
3 appellate proceeding relating thereto. Designated Material shall not be used by  
4 any party or person receiving them for any business or any other non-litigation  
5 purpose. No party or person shall disclose Designated Material to any other party  
6 or person not entitled to receive such Designated Material under the specific  
7 terms of this Protective Order. For purposes of this Protective Order, “disclose”  
8 or “disclosed” means to show, furnish, reveal or provide, indirectly or directly,  
9 any portion of the Designated Material or its contents, orally or in writing,  
10 including the original or any copy of the Designated Material.

11 2. Access to Designated Materials.

12 2.1 Materials Designated “CONFIDENTIAL”: Subject to the limitations  
13 set forth in this Protective Order, Designated Material may be marked  
14 “CONFIDENTIAL” for the purpose of preventing the disclosure of information  
15 or materials that the designating party in good faith believes is confidential.  
16 Before designating any specific information or material “CONFIDENTIAL,” the  
17 Designating Party’s counsel shall make a good faith determination that the  
18 information warrants protection under Rule 26(c) of the Federal Rules of Civil  
19 Procedure. Such information may include, but is not limited to:

20 (a) names of vendors and customers for the allegedly infringing  
21 goods at issue. However, the parties are free to amend the operative pleadings to  
22 add such customers and vendors as appropriate;

23 (b) Technical data, research and development data, and any other  
24 confidential commercial information, including but not limited to trade secrets of  
25 the Designating Party;

26 (c) Information which the Designating Party believes in good  
27 faith falls within the right to privacy guaranteed by the laws of the United States  
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1 or California; and

2 (d) Information which the Designating Party believes in good  
3 faith to constitute, contain, reveal or reflect proprietary, financial, business,  
4 technical, or other confidential information.

5 The fact that an item or category is` listed as an example in this or other  
6 sections of this Protective Order does not, by itself, render the item or category  
7 discoverable.

8 2.1.0 Materials designated “CONFIDENTIAL” may be disclosed only to  
9 the following Designees:

10 2.1.1 Persons who appear on the face of Designated Materials marked  
11 “CONFIDENTIAL” as an author, addressee, or recipient thereof;

12 2.1.2 Counsel retained as outside litigation attorneys of record in this  
13 action, and their respective associates, clerks, legal assistants, stenographic,  
14 videographic and support personnel, and other employees of such outside  
15 litigation attorneys, and organizations retained by such attorneys to provide  
16 litigation support services in this action and the employees of said organizations.  
17 “Counsel” explicitly excludes any in-house counsel whether or not they are  
18 attorneys of record in this action.

19 2.1.3 Consultants, including non-party experts and consultants retained or  
20 employed by Counsel to assist in the preparation of the case, to the extent they  
21 are reasonably necessary to render professional services in this action. Each  
22 consultant must sign a certification that he or she has read this Stipulated  
23 Protective Order, will abide by its provisions, and will submit to the jurisdiction  
24 of this Court regarding the enforcement of this Order’s provisions.

25 2.1.4 A party’s officers and/or employees, which may include in-house  
26 counsel.

1           2.1.5 The Court, its clerks and secretaries, and any court reporter retained  
2 to record proceedings before the Court; and

3           2.1.6 Court reporters videographers and similar vendors retained to  
4 transcribe or videotape the depositions.

5           2.2   Materials Designated “HIGHLY CONFIDENTIAL – ATTORNEYS’  
6 EYES ONLY”: Subject to the limitations in this Protective Order, Designated  
7 Materials may be marked “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
8 ONLY” for the purpose of preventing the disclosure of information or materials  
9 which, if disclosed to the receiving party, might cause competitive harm to the  
10 Designating Party. Information and material that may be subject to this  
11 protection includes, but is not limited to:

12                   (a)   The financial performance or results of the Designating Party,  
13 including without limitation income statements, balance sheets, cash flow  
14 analyses, budget projections, sales records or information, and present value  
15 calculations;

16                   (b)   Corporate and strategic planning by the Designating Party,  
17 including without limitation marketing plans, competitive intelligence reports,  
18 sales projections and competitive strategy documents;

19                   (c)   Names, addresses, and other information that would identify  
20 customers, prospective customers, or the distributors or prospective distributors  
21 of the Designating Party; However, the parties are free to amend the operative  
22 pleadings to add customers and vendors for the allegedly infringing goods at  
23 issue and disclose their identity to a party’s officers and/or employees, which may  
24 include in-house counsel in addition to the persons permitted by Paragraph 2.2.0  
25 of this Protective Order;

26                   (d)   Information used by the Designating Party in or pertaining to  
27 its trade or business, which information the Designating Party believes in good  
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1 faith has competitive value, which is not generally known to others and which the  
2 Designating Party would not normally reveal to third parties except in  
3 confidence, or has undertaken with others to maintain in confidence; and

4 (e) Technical and/or research and development data, intellectual  
5 property, financial, marketing and other sales data, and/or information having  
6 strategic commercial value pertaining to the Designating Party's trade or  
7 business. Nothing in paragraph 2.1 shall limit the information or material that  
8 can be designated "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY"  
9 under this paragraph. Before designating any specific information "HIGHLY  
10 CONFIDENTIAL – ATTORNEYS' EYES ONLY," the Designating Party's  
11 counsel shall make a good faith determination that the information warrants such  
12 protection.

13 (f) Pursuant to an agreement between Medtronic and Freight  
14 Management, Inc., Medtronic shall not designate documents related to the  
15 identity of motor carriers and brokers, contracts with motor carriers or brokers,  
16 and freight bills as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
17 ONLY". These documents may only be inspected by the following individuals as  
18 agreed upon by the parties: Kim Runkle, Tim Ponder and Dennis Rihn.

19 2.2.0 Materials designated "HIGHLY CONFIDENTIAL – ATTORNEYS'  
20 EYES ONLY" materials may be disclosed only to the following Designees:

21 2.2.1 Persons who appear on the face of Designated Materials marked  
22 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" as an author,  
23 addressee, or recipient thereof;

24 2.2.2 Counsel for the parties to this action, as defined in section 2.1.2;

25 2.2.3 Consultants for the parties to this action, as defined in section 2.1.3;

26 and

27 2.2.4 The Court, its clerks and secretaries, and any court reporter retained  
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1 to record proceedings before the Court.

2 2.2.5 Court reporters videographers and similar vendors retained to  
3 transcribe or videotape depositions.

4 2.3 Legal Effect of Designation. The designation of any information or  
5 materials as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’  
6 EYES ONLY” is intended solely to facilitate the conduct of this litigation.  
7 Neither such designation nor treatment in conformity with such designation shall  
8 be construed in any way as an admission or agreement by the Receiving Party  
9 that the Designated Materials constitute or contain any trade secret or confidential  
10 information. Except as provided in this Protective Order, the Receiving Party  
11 shall not be obligated to challenge the propriety of any designation, and a failure  
12 to do so shall not preclude a subsequent attack on the propriety of such  
13 designation.

14 2.4 Nothing herein in any way restricts the ability of the Receiving Party  
15 to use “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’  
16 EYES ONLY” material produced to it in examining or cross-examining any  
17 employee or consultant of the Designating Party.

18 2.5 The parties agree that the Parties may be provided by their counsel a  
19 summary document, or oral summary, setting forth the alleged infringers’ full  
20 identities, revenues, and gross profits numbers, as well as the plaintiff’s sales,  
21 revenues and profits and from the sale of product affixed with the allegedly  
22 infringed design(s) at issue in this action, notwithstanding any party’s designation  
23 of documents showing such information as “HIGHLY CONFIDENTIAL –  
24 ATTORNEYS’ EYES ONLY”. The parties further agree that Plaintiff is free to  
25 name revealed alleged infringers as defendants in a lawsuit.

26 3. Certificates Concerning Designated Materials. Each Consultant as  
27 defined in section 2.1.3, to whom any Designated Materials will be disclosed  
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1 shall, prior to disclosure of such material, execute the Acknowledgement of  
2 Stipulated Protective Order in the form attached hereto as Exhibit A. Counsel  
3 who makes any disclosure of Designated Materials shall retain each executed  
4 Acknowledgement of Stipulated Protective Order.

5 4. Use of Designated Materials by Designating Party. Nothing in this  
6 Protective Order shall limit a Designating Party's use of its own information or  
7 materials, or prevent a Designating Party from disclosing its own information or  
8 materials to any person. Such disclosure shall not affect any designations made  
9 pursuant to the terms of this Protective Order, so long as the disclosure is made in  
10 a manner that is reasonably calculated to maintain the confidentiality of the  
11 information.

12 5. Manner of Designating Written Materials.

13 5.1 Documents, discovery responses and other written materials shall be  
14 designated as "CONFIDENTIAL," "HIGHLY CONFIDENTIAL –  
15 ATTORNEYS' EYES ONLY" whether in whole or in part, as follows.

16 5.2 The producing party shall designate materials by placing the legend  
17 "CONFIDENTIAL," "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
18 ONLY" on each page so designated prior to production.

19 5.3 A designation of "CONFIDENTIAL," or "HIGHLY  
20 CONFIDENTIAL – ATTORNEYS' EYES ONLY" as to any item, thing or  
21 object that cannot otherwise be categorized as a document, written discovery or  
22 other written materials shall be made: (1) by placing the legend  
23 "CONFIDENTIAL," or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
24 ONLY" on the thing, object or container within which it is stored; or (2) by  
25 specifically identifying, in writing, the item and the level of confidentiality  
26 designation, where such labeling is not feasible.

1           5.4    When a party wishes to designate as “CONFIDENTIAL,” or  
2 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” materials  
3 produced by someone other than the Designating Party (a “Producing Party”),  
4 such designation shall be made:

5           5.4.1 Within fifteen (15) business days from the date that the Designating  
6 Party receives copies of the materials from the producing or disclosing entity; and

7           5.4.2 By notice to all parties to this action and to the Producing Party, if  
8 such party is not a party to this action, identifying the materials to be designated  
9 with particularity (either by production numbers or by providing other adequate  
10 identification of the specific material). Such notice shall be sent by U.S. mail or  
11 e-mail.

12           5.4.3. A party shall be permitted to designate as “CONFIDENTIAL,” or  
13 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” material produced  
14 by a Producing Party only where:

15               a.     The material being produced was provided to or developed by  
16 such Producing Party: (i) under a written confidentiality agreement with the  
17 Designating Party; or (ii) within a relationship with the Designating Party (or a  
18 party operating under the control thereof) in which confidentiality is imposed by  
19 law (including, but not limited, to the employment relationship and the vendor-  
20 customer relationship); and

21               b.     The material being produced would be considered confidential  
22 material of the Designating Party under Section 2.1 of this Agreement if it were in  
23 the possession of the Designating Party.

24           5.5    Upon notice of designation, all persons receiving notice of the  
25 requested designation of materials shall:

26           5.5.1 Make no further disclosure of such Designated Material or  
27 information contained therein, except as allowed in this Protective Order;  
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1           5.5.2 Take reasonable steps to notify any persons known to have  
2 possession of or access to such Designated Materials of the effect of such  
3 designation under this Protective Order; and

4           5.5.3 If “CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL –  
5 ATTORNEYS’ EYES ONLY” material or information contained therein is  
6 disclosed to any person other than those entitled to disclosure in the manner  
7 authorized by this Protective Order, the party responsible for the disclosure shall,  
8 immediately upon learning of such disclosure, inform the Designating Party in  
9 writing of all pertinent facts relating to such disclosure, and shall make every  
10 effort to prevent further disclosure by the unauthorized person(s).

11           6.     Manner of Designating Deposition Testimony.

12           6.1     Deposition transcripts and portions thereof taken in this action may  
13 be designated as “CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL –  
14 ATTORNEYS’ EYES ONLY” during the deposition or after, in which case the  
15 portion of the transcript containing Designated Material shall be identified in the  
16 transcript by the Court Reporter as “CONFIDENTIAL,” or “HIGHLY  
17 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” The designated testimony  
18 shall be bound in a separate volume and marked by the reporter accordingly.

19           6.2     Where testimony is designated during the deposition, the  
20 Designating Party shall have the right to exclude, at those portions of the  
21 deposition, all persons not authorized by the terms of this Protective Order to  
22 receive such Designated Material.

23           6.3     Within seven (7) days after a deposition transcript is certified by the  
24 court reporter, any party may designate pages of the transcript and/or its exhibits  
25 as Designated Material. During such seven (7) day period, the transcript in its  
26 entirety shall be treated as “CONFIDENTIAL” (except for those portions  
27 identified earlier as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
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1 ONLY” which shall be treated accordingly from the date of designation). If any  
2 party so designates such material, the parties shall provide written notice of such  
3 designation to all parties within the seven (7) day period. Designated Material  
4 within the deposition transcript or the exhibits thereto may be identified in  
5 writing by page and line, or by underlining and marking such portions  
6 “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
7 ONLY” and providing such marked-up portions to all counsel.

8 7. Copies. All complete or partial copies of a document that disclose  
9 Designated Materials shall be subject to the terms of this Protective Order.

10 8. Court Procedures.

11 8.1 Disclosure of Designated Material to Court Officials. Subject to the  
12 provisions of this section, Designated Material may be disclosed to the Court,  
13 Court officials or employees involved in this action (including court reporters,  
14 persons operating video recording equipment at depositions, and any special  
15 master, referee, expert, technical advisor or Third-Party Consultant appointed by  
16 the Court), and to the jury in this action, and any interpreters interpreting on  
17 behalf of any party or deponent.

18 8.2 Filing Designated Materials with the Court. Nothing in this Order  
19 shall vary the requirements for filing under Seal imposed by the Federal Rules of  
20 Civil Procedure or the Local Rules of this Court. If a party wishes to file with the  
21 Court any document, transcript or thing containing information which has been  
22 designated “CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL –  
23 ATTORNEYS’ EYES ONLY” the Party shall designate the material as set forth  
24 herein and file it with the Court in an application for filing under seal under the  
25 Local Rules of this Court, with the material bearing the following or substantially  
26 similar legend:

27 “[CONFIDENTIAL, or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
28 ONLY] INFORMATION SUBJECT TO PROTECTIVE ORDER.”

1 The Application for Filing under Seal must show good cause for the under seal  
2 filing. Filing the document under seal shall not bar any party from unrestricted use  
3 or dissemination of those portions of the document that do not contain material  
4 designated “CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL –  
5 ATTORNEYS’ EYES ONLY.” If a filing party fails to designate information as  
6 “CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
7 ONLY,” any party who in good faith believes that designation and filing under seal  
8 is required by this Protective Order may move the Court to file said information  
9 under seal within five (5) days of learning of the defective filing. Notice of such  
10 designation shall be given to all parties. Nothing in this provision relieves a party  
11 of liability for damages caused by failure to properly file Designated Material  
12 under seal.

13 8.3 In the event that the Court refuses to allow any document to be filed  
14 under seal, despite the Receiving Party’s compliance with Section 8.2, the Federal  
15 Rules of Civil Procedure and Local Rules of this Court, the Receiving Party may,  
16 nonetheless, file such documents with the Court as part of the public record.

17 8.4 Retrieval of Designated Materials. The party responsible for lodging  
18 or filing the Designated Materials shall be responsible for retrieving such  
19 Designated Materials from the Court following the final termination of the action  
20 (including after any appeals).

21 9. Objections

22 9.1 A party may challenge any designation under this Protective Order at  
23 any time, on the grounds that the information or material does not meet the  
24 standards of Sections 1 and 2, by following the procedure of Local Rule 37 of this  
25 Court.

26 9.2 The parties shall meet and confer in good faith prior to the filing of  
27 any motion under this section.  
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1           10.    Client Communication. Nothing in this Protective Order shall  
2 prevent or otherwise restrict counsel from rendering advice to their clients and, in  
3 the course of rendering such advice, relying upon the examination of Designated  
4 Material. In rendering such advice and otherwise communicating with the client,  
5 however, counsel shall not disclose any Designated Material, except as otherwise  
6 permitted by this Protective Order.

7           11.    No Prejudice.

8           11.1 This Protective Order shall not diminish any existing obligation or  
9 right with respect to Designated Material, nor shall it prevent a disclosure to  
10 which the Designating Party consented in writing before the disclosure takes  
11 place.

12          11.2 Unless the parties stipulate otherwise, evidence of the existence or  
13 nonexistence of a designation under this Protective Order shall not be admissible  
14 for any purpose during any proceeding on the merits of this action.

15          11.3 If any party required to produce documents contends that it  
16 inadvertently produced any Designated Material without marking it with the  
17 appropriate legend, or inadvertently produced any Designated Material with an  
18 incorrect legend, the producing party may give written notice to the receiving  
19 party or parties, including appropriately stamped substitute copies of the  
20 Designated Material. Within three (3) business days of receipt of the substitute  
21 copies, the receiving party shall return the previously unmarked or mismarked  
22 items and all copies thereof.

23          11.4 Neither the provisions of this Protective Order, nor the filing of any  
24 material under seal, shall prevent the use in open court, in deposition, at any  
25 hearing, or at trial of this case of any material that is subject to this Protective  
26 Order or filed under seal pursuant to its provisions. At deposition, the party using  
27 Designated Material must request that the portion of the proceeding where use is  
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1 made be conducted so as to exclude persons not qualified to receive such  
2 Designated Material. Upon request of a party, the parties shall meet and confer  
3 concerning the use and protection of Designated Material in open court at any  
4 hearing. Prior to the pretrial conference, the parties shall meet and confer  
5 concerning appropriate methods for dealing with Designated Material at trial.

6 11.5 Any inadvertent production of documents containing privileged  
7 information shall not be deemed to be a waiver of the attorney-client privilege,  
8 work product doctrine, or any other applicable privilege or doctrines. All parties  
9 specifically reserve the right to demand the return of any privileged documents  
10 that it may produce inadvertently during discovery if the producing party  
11 determines that such documents contain privileged information. After receiving  
12 notice of such inadvertent production by the producing party, the receiving party  
13 agrees to make reasonable and good faith efforts to locate and return to the  
14 producing party all such inadvertently produced documents.

15 12. Modification and Survival.

16 12.1 Modification. The Order shall be subject to modification by the Court  
17 on its own initiative, or on Motion of a party or any other person with standing.  
18 Accordingly, the parties reserve the right to seek modification of this Protective  
19 Order at any time for good cause. The parties agree to meet and confer prior to  
20 seeking to modify this Protective Order for any reason. The restrictions imposed  
21 by this Protective Order may only be modified or terminated by written  
22 stipulation of all parties or by order of this Court. Parties entering into this  
23 Protective Order will not be deemed to have waived any of their rights to seek  
24 later amendment to this Protective Order.

25 12.2 Trial. The parties understand that this Protective Order does not  
26 extend to material presented at the trial of this Action. Once the case proceeds to  
27 trial, any information that is presented on the record during trial, whether or not  
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1 designated as confidential and/or kept and maintained pursuant to the terms of  
2 this Protective Order, will be presumptively available to all members of the  
3 public, including the press, unless good cause is shown to the district judge in  
4 advance of the presentation of that material at trial to proceed otherwise.  
5 However, any documents or things that have been designated as confidential do  
6 not lose their protected character simply by virtue of having been presented as an  
7 exhibit at trial.

8       12.3 Survival and Return of Designated Material. This Protective Order  
9 shall survive termination of this action prior to trial of this action. Upon final  
10 termination of the action prior to trial of this action, and at the written request  
11 of the Designating Party, all Designated Material, including deposition  
12 testimony, and all copies thereof, shall be returned to counsel for the  
13 Designating Party (at the expense of the Designating Party) or (at the option  
14 and expense of the requesting party) shall be destroyed. Upon request for the  
15 return or destruction of Designated Materials, counsel shall certify their  
16 compliance with this provision and shall serve such certification to counsel  
17 for the Designating Party not more than ninety (90) days after the written  
18 request to return or destroy Designated Materials. Counsel who have  
19 submitted one or more Certificate(s) prepared pursuant to Section 3 do not  
20 need to retain such Certificate(s) past the ninety (90) day period.

21       13. No Contract. This Protective Order shall not be construed to  
22 create a contract between the parties or between the parties and their  
23 respective counsel.

24       14. Court's Retention of Jurisdiction. The Court retains jurisdiction  
25 after final termination of the action prior to trial, to enforce this Stipulation.

26       15. Exception for Public Information. Nothing in this Stipulation shall be  
27 deemed in any way to restrict the use of documents or information which are  
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1 lawfully obtained or publicly available to a party independently of discovery in this  
2 action, whether or not the same material has been obtained during the course of  
3 discovery in the action and whether or not such documents or information have  
4 been designated hereunder. However, in the event of a dispute regarding such  
5 independent acquisition, a party wishing to use any independently acquired  
6 documents or information shall bear the burden of proving independent  
7 acquisition.

8       16. Any material designated “CONFIDENTIAL” or “HIGHLY  
9 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” by a party will be deemed by  
10 the Designating Party to this agreement to be authentic and a business record of the  
11 Designating Party, and the Designating Party will be precluded from challenging  
12 the authenticity of any document so designated at any time during this litigation,  
13 including during any necessary collection or appeal proceedings. To the extent that  
14 such material is not a business record of the Designating Party and was not created  
15 by the Designating Party, the non-producing party for which the material is a  
16 business record shall have opportunity to challenge the authenticity of the material  
17 so designated.

18       17. No Prior Judicial Determination. This Order is entered based on the  
19 representations and agreements of the parties and for the purpose of facilitating  
20 discovery. Nothing herein shall be construed or presented as a judicial  
21 determination that any document or material designated Confidential Information  
22 or Attorneys’ Eyes Only Information by counsel or the parties is entitled to  
23 protection under Rule 26(c) of the Federal Rules of Civil Procedure or otherwise  
24 until such time as the Court may rule on a specific document or issue.

25       18. No Admission. The designation by a producing Party of Confidential  
26 Information or Attorneys Eyes Only Information is intended solely to facilitate the  
27 preparation and trial of this action. Such designation is not an admission by any  
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1 Party that the designated disclosure constitutes or contains any Confidential  
2 Information or Attorneys Eyes Only Information. Disclosure of Confidential  
3 Information or Attorneys Eyes Only Information is not a waiver of any right of the  
4 producing Party to object to admissibility.

5 19. Miscellaneous.

6 (a) Right to Assert Other Objections. By stipulating to the entry of  
7 this Order no Party waives any right it otherwise would have to object to disclosing  
8 or producing any information or item on any ground not addressed in this Order.  
9 Similarly, no Party waives any right to object on any ground to the use in evidence  
10 of any of the material covered by this Order. Moreover, this Order shall not  
11 preclude or limit any Party's right to seek further and additional protection against  
12 or limitation upon production of documents produced in response to discovery.

13 (b) Other Privileges. Nothing in this Order shall require disclosure  
14 of materials that a Party contends are protected from disclosure by the attorney-  
15 client privilege or the attorney work-product doctrine. This provision shall not,  
16 however, be construed to preclude any Party from moving the Court for an order  
17 directing the disclosure of such materials where it disputes the claim of attorney-  
18 client privilege or attorney work-product doctrine.

19 (c) Self-Disclosure. Nothing in this Order shall affect the right of  
20 the Designating Party to disclose the Designating Party's own Confidential  
21 information or items to any person or entity. Such disclosure shall not waive any  
22 of the protections of this Order.

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1 (d) Captions. The captions of paragraphs contained in this Order  
2 are for reference only and are not to be construed in any way as a part of this  
3 Order.  
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5 IT IS SO ORDERED.

6  
7 Dated: July 3, 2018



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Honorable Paul L. Abrams  
United States Magistrate Judge

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**Exhibit A**

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

FREIGHT MANAGEMENT, INC., a  
California corporation,

Plaintiff,

v.

MEDTRONIC, INC., a Minnesota  
corporation,

Defendant.

AND RELATED COUNTERCLAIMS

Case No. 8:17-cv-01309 CJC (PLAx)

**DISCOVERY MATTER**

**STIPULATED PROTECTIVE  
ORDER**

The undersigned hereby acknowledges that he/she has read the  
STIPULATED PROTECTIVE ORDER entered in the above captioned litigation,  
and that he/she fully understands and agrees to abide by the obligations and  
conditions thereof.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)